



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/653,640 | 08/31/2000 | Fred Fishburn | 303.703US1 | 4161 |

21186 7590 05/30/2003

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

WILLIAMS, ALEXANDER O

ART UNIT PAPER NUMBER

2826

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/653,640

Applicant(s)

FISHBURN

Examiner

Alexander O Williams

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 and 94-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19-21, 28-36 and 94-102 is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Application/Control Number: 09/653,640
Art Unit: 2826

Page 2

Serial Number: 09/653640 Attorney's Docket #: 303.703US1
Filing Date: 8/31/2000;

Applicant: Fishburn.

Examiner: Alexander Williams

Applicant's Amendment in Paper # 14, filed 3/17/03 has been acknowledged.

Claims 1-18 and 37-93 have been canceled.

Claims 22 to 27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 22 and 25, "the one or more layers" lacks antecedent basis.

Any of claims 22 to 27 not specifically addressed above are rejected as being dependent on one or more of the claims which have been specifically objected to above.

Claims 19-21, 28-36 and 94-102 are allowed.

Claims 20, 21, 26 and 27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response

Applicant's arguments filed 3/17/03 have been fully considered, but are moot in view of the new grounds of rejections detailed above.

The insertion of Applicant's additional claimed language, for example, "19, 22, 25, 26, 28, 29, 31, 34, 94 and 97" cause for further search and consideration to make this action final.

Art Unit: 2826

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

The listed references are cited as of interest to this application, but not applied at this time.

| Field of Search | Date |
|---|-------------------------------|
| U.S. Class and subclass: 257/754,700,701,741,747,748,750,751,753,755,757,758, 764,767,769,770,773,774,528.,532,296,300,68-71 | 6/24/02 12/9/02 5/28/03 |
| Other Documentation: foreign patents and literature in 257/754,700,701,741,747,748,750,751,753,755,757,758, 764,767,769,770,773,774,528.,532,296,300,68-71 | 6/24/02 12/9/02 5/23/03 |
| Electronic data base(s): U.S. Patents EAST | 6/24/02 12/9/02 5/23/03 |

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to Technology Center

Art Unit: 2826

2800 via the Technology Center 2800 Fax center located in Crystal Plaza 4-5B15. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center 2800 Fax Center number is (703) 308-7722 or 24. Only Papers related to Technology Center 2800 APPLICATIONS SHOULD BE FAXED to the GROUP 2800 FAX CENTER.

Any inquiry concerning this communication or any earlier communication from the examiner should be directed to **Examiner Alexander Williams** whose telephone number is **(703) 308-4863**.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Technology Center 2800 receptionist** whose telephone number is **(703) 308-0956**.

5/28/03



Primary Examiner
Alexander O. Williams